

DRAFT
ADVISORY COMMITTEE MINUTES

May 24, 2005

Members Present:

Jack Barrett	Steve Millard
Bob Shosted	Linda Sams
John Greenfield	Dave Whaley
Keith Hutchinson	Tracy Whigam
Dave Gribskov	Rian Van Leuven
Max Sheils	Willis Norton
Representative Kathie Garrett	

Members Absent:

Senator Andreason
John Tippets

Mike Taylor – NCCI:

Mike Taylor with the National Council on Compensation Insurance presented an overview of how other states have structured or reformed their medical fee schedules. Mr. Taylor reported on medical costs and severity for Idaho compared to the national average and surrounding states. Medical severity is lower in Idaho than the national average. Idaho averages approximately \$15,000 per claim, compared to Utah, Montana and Colorado severity costs that average \$20,000-\$26,000 per claim. Mr. Taylor also spoke on medical cost distribution, utilization reviews and other cost reduction tactics, and areas of concern that other states have encountered in establishing a medical fee schedule. NCCI has consented to review the Commission's proposed medical fee schedule when available to analyze its cost effectiveness. Mr. Taylor responded to questions and indicated that several of his staff would be available for consultation at any time.

Commissioner Limbaugh stated that a tremendous amount of time and resources are needed to accomplish establishing a medical fee schedule by the first of the year; however, the information received by the State Insurance Fund (SIF) and Liberty Northwest has been extremely helpful. The information they provided includes approximately 85% of Idaho's CPT code charge data. This data is vital in assisting the Commission in establishing conversion factors. Discussion was held regarding the possibility of implementing a utilization schedule in conjunction with the medical fee schedule. Other states that have not set utilization standards have experienced an increase in medical costs. Structuring pharmaceutical and hospital schedules were discussed as well, however due to the time restraints of §72-803, the Commission may not have time to address other issues this year.

Minutes:

Minutes of the February 8, 2005, meeting of the Advisory Committee on Workers' Compensation were approved as written.

Subcommittee Reports:

Commission Finances

(Bob Shosted, Chair, Dave Whaley, John Greenfield, Tracy Whigam, and special member Woody Richards)

Bob Shosted reported that the Commission Finances subcommittee has not met since the last Advisory Committee meeting. However, at the subcommittee's last meeting, several types of trigger points were identified for possible inclusion in proposed legislation that would facilitate stabilizing the Commission's revenues. Mr. Shosted said he intends to discuss the effects of this issue with different sureties before formulating a methodology. Since the Commission is not currently in a financial crisis, the subcommittee will wait for an appropriate time to propose legislation. No immediate meeting is required unless something changes or issues arise.

Physician Deposition Fees

(Keith Hutchinson)

Keith Hutchinson reported that he received no response from attorneys at the State Bar's Sun Valley conference after he requested information regarding providers who charge exorbitant fees for depositions and conferences. So far only three doctors have been identified as outliers. Mr. Hutchinson will draft a letter for the Commission to review and approve to send to doctors who appear to be overcharging for these services.

Consideration of Issues:

Balance Billing by Providers – Jack Barrett

Jack Barrett received a complaint from Todd Winslow with Associated Loggers in Coeur d'Alene. Mr. Winslow reported that he has knowledge of doctors that are balance billing injured workers instead of filing a medical fee dispute with the Commission. The providers are billing workers for any balance owing after a surety has paid. Mr. Barrett reported that Idaho Code § 72-432 specifically disallows this procedure, but there is no penalty for violation. Mr. Barrett reviewed documentation of several providers and hospitals that have recently balance-billed workers. Typically a surety is unaware of this event unless the claimant sends the bill to the surety. It is unsure how often balance billing is being done. Mr. Barrett suggested forming a subcommittee to decide whether a statutory or rule change would be necessary to implement penalties when workers' compensation regulations on balance billing are not followed. Steve Millard suggested that due to time restraints, changing the statutes might be easier than changing IDAPA

rules. The subcommittee members are Max Sheils (Chair), Jack Barrett, John Greenfield, Dave Whaley, and Steve Millard.

Public Comment

Scott McDougall, Industrial Commission Benefits and Claims Manager, stated his awareness of this problem happening previously with a certain provider and correspondence was sent with no response. Mr. McDougall isn't sure if the provider is balance billing or if a billing agency may be responsible. One of the providers may be from out of state. Mr. McDougall will meet with the subcommittee regarding this issue.

Closing Claims Without Impairment Benefits – Jack Barrett

Jack reported that Todd Winslow with Associated Loggers in North Idaho was also concerned about the Commission's procedure of possibly closing claims administratively by approval of Summaries of Payment prior to claimants being given an impairment rating. Jack noted that Mr. Winslow's perception is that when a claimant's file is closed by the Commission, the claimant may think his claim is closed by the surety as well and is no longer entitled to benefits. If the surety has not requested an impairment rating, and the claimant does not seek counsel or advice, the potential benefit goes unpaid.

Public Comment

Dan Stephens with Pinnacle reported that sureties are required to submit a Summary of Payment Report (SOP) to the Commission within 60 days after the last disability payment and often the claim is not ready to be closed by the surety. Mr. Stephens suggested that it would be simpler for the sureties to send the Commission SOP's when the claim is ready to close by the surety. Julie Cooper with the State Insurance Fund commented that this is also a problem for the State Insurance Fund.

Mr. McDougall stated that the Commission currently audits all Summaries of Payment, including the required underlying medical documentation. If it appears that the claimant may have an unreported impairment, a notice is sent to the adjuster requesting that a rating be obtained. The Summary will not be closed by the IC until the IC is satisfied all appropriate treatment and benefits have been provided. Mr. McDougall reported that, nevertheless, closing the claim administratively at the Commission does not foreclose further benefits or legal recourse.

Mr. McDougall concurred with Dan Stephens and Julie Cooper that the language in the "60 day" rule does lead to confusion and additional paperwork.

Jack will contact Mr. Winslow to obtain more information regarding this problem and report back at the next meeting.

Subcommittee Formation to Compile Workers' Comp Statistics – Steve Millard

Steve Millard mentioned at the last meeting that compiling certain statistics regarding workers' compensation would be beneficial in assisting the Advisory Committee and the

Industrial Commission with various issues. Mr. Millard suggested a subcommittee be formed to gather statistics as needed. Tracy Whigam, Linda Sams, Representative Kathie Garrett, and Rian Van Leuven will serve on the Statistics subcommittee chaired by Steve Millard.

Industrial Commission Report:

Commissioner Limbaugh reported that the Commission received spreadsheets from the State Insurance Fund and Liberty Northwest containing CPT code charge data of the last year. The information provides grouped CPT codes, the number of charges for each CPT code and several different reimbursable scenarios including average and median costs. After each grouping conversion factors are compared. The IMA is also requesting physicians to provide the Commission with their charge data and conversion factors. The information the Commission has and will be receiving from providers should be sufficient to set conversion factors for the medical fee schedule. Once the conversion factors are set, the medical fee schedule will be sent to NCCI for review and testing. Commissioner Limbaugh stated that the Commission also needs to look at utilization. The Commission would like to delve into hospital and pharmaceutical fee schedules, but again, time will probably be a factor. Other states that have not addressed all areas of the medical profession have incurred problems and increased medical costs.

Jack Barrett stated that §72-803 revised by Senator Goedde addresses all medical services including hospitals and medicine. Mr. Barrett suggested the Commission use Medicare factors plus a percentage to set hospital fee schedules at the same time the medical fee schedule is determined. Commissioner Limbaugh responded that if the sureties could provide us with the same information regarding hospital charges, the Commission might be able to establish a schedule. Also, the Commission has not had an opportunity to sit down with the hospitals as we have with physicians to discuss these issues. Steve Millard remarked that Medicare pays hospitals based on a classification system that groups patients' medical conditions into categories or groups (diagnostic-related group) or DRG fixed payment basis that is similar to RBRVS (Resource-Based Relative Value Scale). The Blues pay hospitals by different guidelines than Medicare. Each hospital is paid differently based on its size, location, amount of charity or welfare patients served plus different payment systems are set up for different programs making hospital reimbursement very complicated. Mr. Millard volunteered to work with the Commission to assist in establishing a hospital fee schedule. Mr. Barrett suggested that the State Insurance Fund and Liberty Northwest could provide the Industrial Commission with the information needed to create the hospital fee schedule.

Public Comment

Gary Worley with Advantage Workers' Compensation Insurance in Salt Lake City indicated that he would also help provide information to the Commission in its effort to establish a hospital fee schedule.

Other Legislation:

Dave Whaley inquired as to the status of House Bill 63 regarding pecuniary gain legislation. Commissioner Limbaugh stated that the Commission would like to re-submit the bill based on the Advisory Committee's recommendation to see if the Commission should entertain passage of the bill. The Commission pulled the bill during the last legislative session due to concerns of the potential impact on homeowners. The Commission would like clarification of the law to reduce the controversy and confusion experienced by the Commission's Compliance Department as a result of a recent Supreme Court decision regarding the Bible Missionary Church, Inc. The Advisory Committee agreed to form a subcommittee to study and revise the language of the bill for possible submission to the legislature. The subcommittee members are Blair Jaynes (Industrial Commission's Deputy Attorney General), Jack Barrett, Max Sheils Chair, and John Greenfield.

Member Nominations

Keith Hutchinson announced that he would not be submitting his name for re-election. John Greenfield nominated Bob Shosted for Chairman of the Advisory Committee. Nominations need to be submitted to Nancy Beeson as soon as possible so the information can be distributed to the members.

Topics for next meeting:

The agenda for the next meeting will include identification of any proposed legislation affecting workers' compensation, a report of the subcommittee on balance billing by providers and the subcommittee on pecuniary gain legislation, elections, updates on closing claims without impairment ratings and the medical fee schedule.

The next Advisory Committee meeting will be held August 23, 2005.